

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-35. Claims 1-30 have been rejected by the Final Office Action. Claims 1, 11, 21, 31, and 34 are independent. Claims 2-10, 12-20, 22-30, 32-3, and 35 depend from independent claims 1, 11, 21, 31, and 34, respectively.

By this Amendment, claims 1, 11, and 21 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-7, 9, 11-17, 19, 21-27, and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,644,714, issued to Kikinis (hereinafter, Kikinis). Claims 8, 10, 18, 20, 28, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikinis in view of U.S. Patent No. 5,913,032, issued to Schwartz, et al. (hereinafter, Schwartz). The Applicant respectfully traverses these rejections at least based on the following remarks.

#### **I. Claim Objections**

The Office Action states the following:

Claim 2 is objected to because of the following informalities: Line(s) 2, should read, "... comprising receiving said requested **of** at least a

portion of said one or more of said newly available media, data and service by..." Appropriate correction is required.

See the Office Action at page 2. The Applicant respectfully disagrees and points out that claim 1 recites "requesting at least a portion of said one or more of said newly available media..." Therefore, when this claim limitation appears in Applicant's claim 2, the correct format is "said requested at least a portion of said one or more of said newly available media..." In other words, there is no need for "of" to be placed after "requested." The Applicant submits that no correction to claim 2 is necessary.

## **REJECTIONS UNDER 35 U.S.C. § 102**

### **II. Kikinis Does Not Anticipate Claims 1-7, 9, 11-17, 19, 21-27, and 29**

The Applicant now turns to the rejection of claims 1-7, 9, 11-17, 19, 21-27, and 29 under 35 U.S.C. 102(b) as being anticipated by Kikinis. With regard to the anticipation rejections under 102, MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See id. (internal citation omitted).

**A. Rejection of Independent Claims 1, 11, and 21**

With regard to the rejection of independent claim 1 under 102(b), the Applicant submits that Kikinis does not disclose or suggest at least the limitation of "automatically searching by at least one media processing system located in a first geographic location within the distributed media network, for one or more of newly available media, data and/or service within the distributed media network, said searching based on a media profile associated with a user of said at least one media processing system at the first geographic location," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

In regards to claims 1, 11, and 21 Kinkinis discloses, a method, a machine readable storage having stored thereon, a computer program having at least one code section for communicating information in a distributed media network, the at least one code section being executable by a machine for communication of information in a distributed media network, a system for communication of information in a distributed media network, and a method comprising:

- a. detecting availability by at least one media processing system (Fig. 1A. #1) in the distributed media network (Fig. 1A), of one or more of newly available media, data and service within the distributed media network (Col. 5 line(s) 16-20, teach **the file server's (media processing system)** control routine recognizing (detecting) that a new clipping has been loaded);
- b. comparing by said at least one media processing system, said one or more of said newly available media, data and service with data in a media profile associated with said at least one media

processing system (Fig. 2 #42 and Col. 5 line(s) 34-38, teach the file server comparing subscribers profiles to the newly loaded clippings, for identifying which subscriber has interest.); and

c. requesting at least a portion of said one or more of said newly available media, data and service from the distributed media network based on said comparison by said at least one media processing system (Fig. 2 #52 and Col. 5 line(s) 55-57, teach the subscriber requesting a download of the new clipping, after receiving a notification based on their profile that it is available.).

See the Final Office Action at pages 3-4. The Examiner relies on Figures 1A and 2 of Kikinis, which illustrate a Video Jukebox world-wide architecture. More specifically, Kikinis discloses the following system:

The system comprises a plurality of computerized file server stations interconnected in a network by first data links, with individual ones of the file server stations also connected to a video input apparatus, such as a VCR device or other device capable of providing video input to the connected file server. There is a plurality of client stations connected by second data links to individual ones of the file server stations. Each file server station with a video input apparatus accepts video clippings from the video input apparatus, stores the clippings in a database, and shares the video clippings with other file servers in the network over the first data links, and wherein each file server notifies connected clients of new video clippings available, and downloads video clippings to clients on demand.

(See Kikinis, col. 2, lines 11-24). Also, the individual file servers (1-7) are located worldwide at major sites of customer concentration (e.g., major cities and capitals of various countries). (See *id.* at col. 3, lines 49-55). In other words, the file servers are servers responsible for a given geographic (metropolitan) area, and the clients (17-39) are subscribing clients for a corresponding server for the given geographic area.

Referring to Figure 1A, Kikinis discloses that the individual clients 17-39 specify the topics of their particular interests. More specifically, paying clients of the video service, at the time of subscription, specify the topics of their particular interests. See Kikinis, col. 4, lines 10-13. The Applicant points out that this is the only relevant disclosure by Kikinis of a "profile". Obviously, this "profile" relates to each of the subscribing clients 17-39,

**Applicant's claim 1 now recites that if the media processing system is at a "first geographic location", then the user (who the profile is associated with) is also at the same "first geographic location". In other words, in reference to Kikinis, "user profile" in claim 1 refers to the profile associated with a user of any of the servers, and not a user of any of the remote clients (17-39). However, as clarified above, Kikinis' "profile" relates to the subscribing clients 17-39, and the "profile" does not relate to a user of the file servers 1-7 (equated to Applicant's "media processing systems").**

Therefore, Kikinis does not disclose "automatically searching by at least one media processing system located in a first geographic location within the distributed media network, for one or more of newly available media, data and/or service within the distributed media network, said searching based on a media profile associated with a user of said at least one media processing system at the first geographic location," as recited by the Applicant in independent claim 1.

The Applicant points out that in the previous non-final Office Action (dated August 27, 2007), the Examiner equated Applicant's "media processing system" to the clients 17-39. The Applicant overcame this argument in the November 5, 2007 response, and illustrated why Applicant's claims are not anticipated by Kikinis. The Examiner changed her mind and has now equated Applicant's "media processing system" to the file servers 1-7. The Applicant points out that this argument has also been overcome at least for the above reasons.

Furthermore with regard to the rejection of independent claim 1 under 102(b), the Applicant submits that Kikinis does not disclose or suggest at least the limitation of "automatically requesting by the at least one media processing system, said one or more of said newly available media, data and/or service from the distributed media network based on said comparison by said at least one media processing system," as recited by the Applicant in independent claim 1.

In the above citation, the Examiner relies for support on Fig. 2 (#52) and Col. 5, line(s) 55-57. However, Kikinis at the above citation, simply discloses that it is the subscriber (i.e., any of the clients 17-39) who requests a download of the new clipping, after receiving a notification (from the file server) based on their profile, that the new clipping is available. In this regard, not only is the requesting not done by the file server (equated to Applicant's media processing system), but such requesting of the new clipping is not done automatically (it requires the user/client to first receive a notification of the clipping availability). Therefore,

Kikinis does not disclose or suggest at least the limitation of “automatically requesting by the at least one media processing system, said one or more of said newly available media, data and/or service from the distributed media network based on said comparison by said at least one media processing system,” as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Kikinis and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-7, 9, 12-17, 19, 22-27, and 29**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Kikinis has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-7, 9, 12-17, 19, 22-27, and 29 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-7, 9, 11-17, 19, 21-27, and 29.

**1. Rejection of Dependent Claims 4, 14, and 24**

Dependent claims 4, 14, and 24 depend on independent claims 1, 11, and 21, respectively. Therefore, the Applicant submits that claims 4, 14, and 24 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

Additionally, the Applicant submits that Kikinis does not disclose or suggest at least the limitation of "dynamically updating data in said media profile associated with said at least one media processing system," as recited by the Applicant in claim 4. The Final Office Action relies for support on Kikinis and states the following:

In regards to claims 4, 14, and 24 Kinkinis discloses, dynamically updating data in said media profile associated with said at least one media processing system (Col. 4 line(s) 10-13, teaches the user (media) profile being dynamically updated that is associated with at least one media processing system.).

(See Final Office Action at p. 4). The Applicant respectfully disagrees with the above characterization of Kikinis. For example, the Examiner alleges that col. 4, lines 10-13 discloses "dynamically updating data in said media profile associated with said at least one media processing system," as recited by the



Applicant in claim 4. The Applicant respectfully disagrees that Kikinis teaches such aspects of claim 4.

Kikinis, at col. 4, lines 10-13, discloses that paying clients of the video service (e.g., clients 17-39), at the time of subscription, specify the topics of their particular interest and provide details of their local receiving equipment. This is in effect the establishment of the specific client's profile, at the time the client subscribes to the jukebox service provided by the file server. However, after such profile is established, Kikinis (at the above citation or any remaining portion for that matter) does not mention anything about dynamically updating data in the profile.

Therefore, the Applicant maintains that Kikinis does not disclose or suggest at least the limitation of "dynamically updating data in said media profile associated with said at least one media processing system," as recited by the Applicant in claim 4. Claims 14 and 24 are similar in many respects to the method disclosed in claim 4. Therefore, the Applicant submits that claims 14 and 24 are also allowable over the reference cited in the Final Office Action at least for the reasons stated above with regard to claim 4.

### **III. Rejection of Dependent Claims 8, 10, 18, 20, 28, and 30**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by

Kikinis has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited reference (Schwartz) does not overcome the deficiencies of Kikinis, claims 8, 10, 18, 20, 28, and 30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8, 10, 18, 20, 28, and 30.

#### **IV. New Claims 31-35**

The Applicant has added new independent claims 31 and 34, and corresponding dependent claims 32-33 and 35. The Applicant points out that support for the new claims may be found in, for example, in Figs. 1-2B and paragraphs 34-53 of the specification. Additionally, the Applicant submits that claims 31-35 are not anticipated by Kikinis at least for the reasons stated above with regard to claim 1.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-35 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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